

Raw Score _____

Examination Grade _____

Exam # _____

Question One (50 pts)

B: Bargained for Exchange (consideration) each tutoring the other	8 pts	
A: Just friends helping each other – no economically productive exchange	5 pts	
B: If no consideration, still I foreseeably, detrimentally relied upon A's promise to tutor me in Contracts by giving up my Saturday job and justice requires enforcement of A's promise under principal of §90	8 pts	
A: I had no basis for foreseeing B's giving up her job; even if I had, we each benefited from the tutoring we did for the other and justice does not require more than that	5 pts	
B: If consideration, I am entitled to what it will now cost me to hire an alternative tutor under the principal of expectation damages	5 pts	
B: If §90, I am entitled to money I lost by not working at my waitress job – my reliance damages	5 pts	
A: Even if consideration, you would have to deduct from the cost of the alternate tutor, under principal of mitigation, either wages she could have made as a tutor or wages she could have made as a waitress	5 pts	
A: If §90, at most she is entitled to the wages she would have made, but justice requires recognition of the benefit she was receiving while she was relying	5 pts	
Misc	4 pts	
TOTAL	50 pts	

Question Two (50 pts)

S: No breach where delivery was on 40 th day since parties had modified their contract (no consideration under 2-209) to 45 days	5 pts	
B: No effective modification b/c not requested in good faith and we never agreed to the package of requests (estimate of altimeters to be ordered)	5 pts	
S: 15 altimeters was disproportionate to the normal amount of altimeters so this request was not within B's rights under 2-306	8 pts	
B: There was no fixed quantity in the contract– this was an exclusive requirements contract and I needed 15 altimeters; variation has been great	5 pts	
S: Even if I breached (and at most I breached for 10, not 15 altimeters), the liquidated damages clause does not satisfy the requirements of 2-718	8 pts	
B: Courts have been more sympathetic to liquidated damages clauses and we would argue that at the time of making of the contract it was difficult to foresee what damages we would suffer if S failed to deliver ordered altimeters	8 pts	
S: Assuming invalidity of liquidated damages clause, B not entitled to lost profit because this was a loss avoidable by cover under 2-715(2)	8 pts	
Misc	3 pts	
TOTAL	50 pts	

COMMENTS: